



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 TWELFTH STREET, S.W.

WASHINGTON, D.C. 20554

DA 03-3728

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> [ftp.fcc.gov](ftp://ftp.fcc.gov)

Released: November 20, 2003

**DAVID MICHELMAN AND AT&T WIRELESS PCS, LLC
SEEK FCC CONSENT TO ASSIGN
BROADBAND PERSONAL COMMUNICATIONS SERVICES LICENSES**

WT Dkt. No. 03-240

PLEADING CYCLE ESTABLISHED

Petitions/Comments Due: December 22, 2003
Oppositions Due: January 2, 2004
Replies Due: January 9, 2004

David Michelman ("Michelman") and AT&T Wireless PCS, LLC ("AWP"), a wholly-owned subsidiary of AT&T Wireless Services, Inc. ("AWS"), have filed applications ("Applications") pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ seeking Commission consent for the full or partial assignment of three broadband Personal Communications Services ("PCS") licenses. In these Applications, AWP seeks consent to reacquire some of the spectrum in portions of the Atlanta Metropolitan Trading Area ("MTA") (MTA011), Louisville-Lexington-Evansville MTA (MTA026), and Memphis-Jackson MTA (MTA028) that it divested to Michelman, as trustee, to come into compliance with the Commission's former Commercial Mobile Radio Services (CMRS) spectrum aggregation limit ("Spectrum Cap").² Upon consummation of this transaction, AWP will regain 5 MHz of spectrum in the Dalton, GA Basic Trading Area ("BTA") and the Rome, GA BTA in the Atlanta MTA;³ 5 MHz of spectrum in the Natchez, MS BTA and the Tupelo-Corinth, MS BTA in the Memphis-Jackson MTA;⁴ and 10 MHz of spectrum in Laurel County, Kentucky in the Louisville-Lexington-Evansville MTA. The

¹ 47 U.S.C. § 310(d).

² See 47 C.F.R. § 20.6 (repealed); see also ULS File Nos. 0000634714, 0000634722, and 0000634728 (filed Oct. 19, 2001); AT&T Wireless Services, Inc., *Order*, 17 FCC Rcd. 13,282 (EB 2002) (adopting a Consent Decree entered into by AWS and the Commission terminating an investigation by the Commission's Enforcement Bureau into AWS' compliance with the Spectrum Cap rule). The transaction assigning spectrum from AWP to Michelman was consummated on April 11, 2002. See ULS File Nos. 0000846694, 0000846703, and 0000846703 (filed April 12, 2002).

³ The Dalton, GA BTA (BTA102) is comprised of Murray and Whitfield Counties in Georgia. The Rome, GA BTA (BTA384) is comprised of Floyd and Polk Counties in Georgia.

⁴ The Natchez, MS BTA (BTA315) is comprised of Concordia County in Louisiana, and Adams, Franklin, and Jefferson Counties in Mississippi. The Tupelo-Corinth, MS BTA (BTA449) is comprised of Alcorn, Calhoun, Chickasaw, Hawamba, Lee, Monroe, Pontotoc, Prentiss, Tippah, Tishomingo, and Union Counties in Mississippi.

parties allege that Michelman has been unable to sell this spectrum.⁵ Thus, in light of the repeal of the Spectrum Cap, AWP now seeks to reacquire the spectrum from the Michelman trust. As a result of this transaction, AWP and AWS will have an interest in 40 MHz of spectrum in Laurel County, Kentucky and 60 MHz of spectrum in the Dalton, GA BTA, the Rome, GA BTA, the Natchez, MS BTA, and the Tupelo-Corinth, MS BTA.⁶

I. APPLICATIONS

The following applications for consent of the assignment of licenses granted pursuant to Part 24 of the Commission's rules have been assigned the file numbers below:

<u>File No.</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0001488867 ⁷	David Michelman	WPUQ736
0001489449	David Michelman	WPUQ737

II. GENERAL INFORMATION

The assignment applications referenced herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

Final action on these applications will not be taken earlier than thirty-one days following the date of this Public Notice.⁸ Interested parties may file comments or petitions to deny no later than **December 22, 2003**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Persons and entities that file comments will have those comments considered but do not become parties to the proceeding and may not be able to participate as fully as petitioners. Oppositions to such pleadings may be filed no later than **January 2, 2004**. Replies to such pleadings may be filed no later than **January 9, 2004**. All filings concerning matters referenced in this Public Notice should refer to **DA 03-3728** and **WT Docket No. 03-240**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

All documents filed in the proceeding should indicate in the caption that this matter is before the Wireless Telecommunications Bureau, Commercial Wireless Division, Policy and Rules Branch.

⁵ The Applications state that Michelman has found a third-party buyer for the remaining spectrum in the trust.

⁶ AWS and AWP will have an interest of 30 MHz of spectrum in the Tupelo-Corinth, MS BTA after Tritel C/F Holding Corp., a wholly-owned AWS subsidiary, assigns 30 MHz of spectrum to RCC of Minnesota, Inc. See ULS File No. 0001501982.

⁷ ULS File No. 0001488867 has been designated as the lead application, and all pleadings and other submissions filed in this matter that pertain generally to the transaction and not to a particular application will be available through this file number.

⁸ See 47 U.S.C. § 309(b).

Under the Commission's current procedures for the submission of filings and other documents,⁹ submission in this matter may be filed electronically (*i.e.*, by the Commission's Electronic Comment Filing System (ECFS)) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**¹⁰ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.
- **If filed by paper,** the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings) to: (1) the Commission's duplicating contractor, Qualex International, at qualexint@aol.com or (202) 863-2898 (facsimile); (2) Erin McGrath, Commercial Wireless Division, Wireless Telecommunications Bureau, at emcgrath@fcc.gov or (202) 418-7447 (facsimile).

For further information, contact Erin McGrath, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-7240.

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⁹ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, FCC 01-345 (rel. Nov. 29, 2001); see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, DA 01-2919 (rel. Dec. 14, 2001).

¹⁰ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).